

CONSTITUTIONAL AMENDMENT
AUTHORIZING CONGRESS TO
PROHIBIT PHYSICAL DESECRATION
OF THE FLAG OF THE
UNITED STATES

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. MOORE. Mr. Speaker, I rise in opposition to H.J. Res. 36, which proposes an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

For over two hundred years, the Bill of Rights of our Constitution has been the cornerstone of our great nation and the source of our basic freedoms and rights. Our democracy has withstood many tests of our freedoms, and has been strengthened as a result. The occasional, random, despicable acts of public desecration of our flag present another such test.

The American flag is a symbol for liberty and justice, for freedom of speech and expression and all of the other rights we cherish. But as important as the symbol may be, more important are the ideals and principles which the symbol represents. That our nation can tolerate dissension and even disrespect for our flag is proof of the strength of our nation. If we amend our Bill of Rights to protect the flag we would forsake the very freedoms that the flag symbolizes.

On May 18, 1999, General Colin Powell, who has dedicated his life to serving our country, sent a letter to Senator PATRICK LEAHY sharing his reasons for opposing this constitutional amendment. Senator LEAHY entered that letter in to the CONGRESSIONAL RECORD on March 29, 2000. The text of this poignant and thought-provoking letter is attached.

I love our country. I love our flag—and the principles for which it stands. By voting against this proposed amendment, we vote for the rights and freedoms that make our country great and distinguish our country from virtually every other country in the world.

GEN. COLIN L. POWELL, USA (RET),
Alexandria, VA, May 18, 1999.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Thank you for your recent letter asking my views on the proposed flag protection amendment.

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol.

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous.

I would not amend the great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away. * * *

If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

Sincerely,

COLIN L. POWELL.

P.S. The attached 1989 article by a Vietnam POW gave me further inspiration for my position.

WHEN THEY BURNED THE FLAG BACK HOME:
THOUGHTS OF A FORMER POW

(By James H. Warner)

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft I looked up and saw the flag. I caught my breath, then, as tears filled my eyes, I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment the Communists told us that we did not have to stay there. If we would only admit we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted, most did not. In our minds, early release under those conditions would amount to a betrayal, of our comrades of our country and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured, and some of my comrades died. I was tortured for most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this. Yes, it was worth all this and more.

Rose Wilder Lane, in her magnificent book "The Discovery of Freedom," said there are two fundamental truths that men must know in order to be free. They must know that all men are brothers, and they must know that all men are born free. Once men accept these two ideas, they will never accept bondage. The power of these ideas explains why it was illegal to teach slaves to read.

One can teach these ideas, even in a Communist prison camp. Marxists believe that ideas are merely the product of material conditions; change those material conditions, and one will change the ideas they produce. They tried to "re-educate" us. If we could show them that we would not abandon our belief in fundamental principles, then we could prove the falseness of their doctrine. We could subvert them by teaching them about freedom through our example. We could show them the power of ideas.

I did not appreciate this power before I was a prisoner of war. I remember one interrogation when I was shown a photograph of some Americans protesting the war by burning a flag. "There," the officer said, "People in your country protest against your cause. That proves that you are wrong."

"No," I said, "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us." The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Aneurin Bevan, former official of the British Labor Party, was once asked by Nikita Khrushchev how the British definition of democracy differed from the Soviet view. Bevan responded, forcefully, that if Khrushchev really wanted to know the difference, he should read the funeral oration of Pericles.

In that speech, recorded in the Second Book of Thucydides' "History of the Peloponnesian War," Pericles contrasted democratic Athens with totalitarian Sparta. Unlike the Spartans, he said, the Athenians did not fear freedom. Rather, they viewed freedom as the very source of their strength. As it was for Athens, so it is for America—our freedom is not to be feared, but our freedom is our strength.

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. The flag in Dallas was burned to protest the nomination of Ronald Reagan, and he told us how to spread the idea of freedom when he said that we should turn America into "a city shining on a hill, a light to all nations." Don't be afraid of freedom, it is the best weapon we have.

IN HONOR OF REVEREND THOMAS
C. MCKINLEY'S ACHIEVEMENTS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 2001

Mr. VISCLOSKY. Mr. Speaker, it is my honor to congratulate an individual who found his spiritual calling, and was able to overcome many obstacles to help his community and to make life better for the citizens of Indiana's First Congressional District. Reverend Thomas C. McKinley of Gary, Indiana will be honored this Friday, July 20, 2001, at the Twentieth Century Missionary Baptist Church for earning his diploma of academic achievement from the State of Indiana.

Thomas C. McKinley came from a humble background and endured a troubled youth. However, his life was changed forever at the age of 17, when McKinley acknowledged his calling to the ministry. On October 15, 1980, he was ordained by the Indiana Christian Bible College. For the past ten years, Reverend McKinley has served as the spiritual shepherd for the Twentieth Century Missionary Baptist Church, located at 700 West 11th Avenue in Gary, Indiana.

Reverend McKinley has proven himself to be a selfless example to his congregation. He has been invaluable to the members of his community as both a teacher and evangelist, and particularly through his teaching ministry for stewardship. While a wonderful pastor, Reverend McKinley's leadership skills do not end with the spiritual realm; he has served as President of the Baptist Ministers' Conference of Gary, and as Treasurer of the Gary Police Chaplain Department.

While Reverend McKinley has selflessly served his community in Gary, his service to humanity has known no boundaries. In 1999, he spent a month in Honduras, completing two pilgrimages aiding hurricane victims with food, clothing, and medicine. Not only did he donate his own time and resources, he also organized other churches back home to assist many other Hondurans in need. His desire to help those overseas also led Reverend McKinley to serve as a missionary in Haiti.

Although Reverend McKinley gives much of his time to others, he is still a devoted family man. Nothing is more important to him than his supportive and beloved wife, Camellia, and his three daughters, Charletta, Charlotte, and Sabrina, and his son Russell.

Mr. Speaker, I ask that you and my distinguished colleagues join me in congratulating Reverend Thomas C. McKinley for his commendable efforts towards improving himself, his family, his community, and the world. Reverend McKinley is to be admired for the wonderful example he has set for our community as a pastor, a father, and an involved citizen.

TRIBUTE TO THE CITY OF MANILA

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 2001

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansas city that celebrated its centennial on July 3rd. I am proud to recognize the City of Manila in the Congress for its outstanding community spirit and its contributions to Arkansas and the nation.

Manila was incorporated in 1901 after a population and industry boom in the area. Recordings of Manila go all the way back to the 1500's when Hernando de Soto crossed the Mississippi River. Accounts taken from his travels talk about a Native American settlement, although there were several European settlers also said to be living in the area.

Manila is also known for being a settlement of fugitive Cherokee who snuck away from the Trail of Tears as they were being forcibly driven from Georgia in 1838. The swamps were so overgrown that the federal soldiers didn't

want to go look for them and simply declared them as dead. These runaways later settled in what is today Manila and the surrounding areas.

From its beginning, Manila was primarily an agriculture town. The people in the area lived on the plentiful game and fish in the area and developed an industry by shipping it to markets in St. Louis, Chicago, and as far east as New York. Later, timber became the chief industry. Logs would be sent to mills down the river until the quality and quantity of the timber reached the railroad industry. In 1900, the Jonesboro, Lake City, and Eastern Railway extended its line to Manila. With the railroad came a schoolhouse, general store, a mill, and a population boom.

Today Manila is still growing. In fact, it is the fastest growing town in Mississippi County. That is why I rise today on behalf of the citizens of the First Congressional District, the State of Arkansas, and the United States Congress to wish the City of Manila a happy 100th birthday.

INTRODUCTION OF THE EXPORT ADMINISTRATION ACT OF 2001

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 2001

Mr. MENENDEZ. Mr. Speaker, I rise together with my distinguished colleague from Arizona, JEFF FLAKE, to introduce the Export Administration Act of 2001.

My colleagues, it is high time for the Congress to responsibly legislate export controls. We have not done so properly since the end of the Cold War, when the *raison d'être* for the Export Administration Act of 1979, of preventing the proliferation of sensitive dual-use technologies to the Soviet Union, ceased to exist.

As went the Soviet Union, so went the threat of an all-pervasive, mind-focusing totalitarian threat to the United States. So, also, went the very multilateral non-proliferation system, CoCom, that effectively helped keep a lid on that Soviet threat.

Now, new threats are upon us—cyber warfare, the potential for proliferation of weapons of mass destruction, and terrorism. It is incumbent upon this Congress to update this legislation in a manner that effectively can address those threats and in a manner that can effectively restrict dual-use exports that may threaten the United States.

Indeed, the key single criteria for this renewal, it seems to me, is whether those export controls that we legislate can actually protect Americans.

As a matter of principle, before enacting export restriction legislation, both Congress and the Administration must ensure that the affected exports in fact can be effectively restricted. I doubt anyone would responsibly suggest that legislating an unworkable control achieves any worthwhile goal or makes any sense.

Other important criteria need to be determined:

Would this bill sensibly update the outdated 1979 law? That is, would it recognize that na-

tion-states and other global actors, technology and the threats to the United States have changed significantly since the end of the Cold War?

Would it enhance America's economic prosperity without sacrificing America's national security?

And would it provide the Executive Branch with all the legal authority and the flexibility it needs to protect the American people? Put another way, would it unduly tie the hands of the Administration in a way that could obstruct its constitutional duty to provide for the national defense?

I have taken a hard look at S. 149, which would update the Export Administration Act. After a careful review, I believe this bill, as reported by the Senate, satisfactorily addresses the criteria I outlined above and enhances America's economic prosperity without sacrificing America's national security.

It would protect Americans by ensuring that the national security agencies in the Executive Branch may be used to identify any actual or looming threats to our national security. In addition to the Commerce Department, the Defense Department, State Department and intelligence community are at the immediate disposal of the President of the United States and can signal at any time to the administration the need to restrict any export.

The Enhanced Control provision of Title II and the Deferral Provision of Title III would provide the President with the authority to control any export he may see an urgent need to control, notwithstanding any other provisions in the bill—including mass market status or foreign availability or set-asides.

There is a glaring need, however, that I believe must be addressed by Congress. The Wassenaar Arrangement for that replaced CoCom is simply inadequate to address multilateral nonproliferation concerns. While the Soviet Union is no longer with us, nuclear proliferation concerns are real and present. Simple periodic reports on dual-use exports are clearly insufficient to address these concerns.

I want to commend Chairman HYDE and Ranking Member LANTOS and their staffs for holding hearings and briefings on export administration and their very hard work on this issue. But now it is time to move forward with re-authorization, not re-extension.

Officials from the Departments of Defense, State and Commerce have testified at the three hearings before the House International Relations Committee has held on this matter and all have signaled their support for passing the Export Administration Act of 2001, as reported by the Senate Banking Committee. The Administration has provided a clear and unambiguous position that titles two and three provide adequate authorities to the President with regard to export controls, notwithstanding any other provisions of law. I also look forward to working with the Administration on non-proliferation matters and building a better multilateral mechanism than the Wassenaar Arrangement.

Mr. Speaker, as a member of the House International Relations Committee, I am keenly aware of the national security issues and threats that face our great country. As former Ranking Member in the last Congress of the